

**In re: ESTELA OLVERA-RIOS.**  
**P.Q. Docket No. 00-0002.**  
**Decision and Order filed July 31, 2000.**

Howard Levine, for Complainant.  
Respondent, Pro se.  
*Decision and Order issued by James W. Hunt, Administrative Law Judge.*

This is an administrative proceeding for the assessment of a civil penalty for a violation of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. §§ 151-167) and the Federal Plant Pest Act, as amended (7 U.S.C. §§ 150aa-150jj) (Acts), and the regulations promulgated thereunder (7 C.F.R. § 319.56 *et seq.*).

This proceeding was instituted by a complaint filed against Estela Olvera-Rios, respondent, on November 26, 1999, by the Acting Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, and sent via certified mail to the Respondent on November 30, 1999. On January 4, 2000, the Complaint was returned to the Hearing Clerk marked "unclaimed." On January 11, 2000, the complaint was mailed to Respondent via first class mail. Respondent has not filed an answer to date.

Pursuant to section 1.147(c)(1) of the Rules of Practice (7 C.F.R. § 1.147(c)(1)), the complaint is deemed to have been received by respondent on January 11, the date of remailing by ordinary mail. Furthermore, pursuant to section 1.136(c) of the rules of practice (7 C.F.R. § 1.136(c)), failure to deny or otherwise respond to the allegations in the complaint constitutes, for the purposes of this proceeding, an admission of said allegations. By respondent's failure to answer, respondent has admitted the allegations of the complaint.

Accordingly, the material allegations alleged in the complaint are adopted and set forth herein as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the rules of practice applicable to this proceeding. (7 C.F.R. § 1.139).

**Findings of Fact**

1. Estela Olvera-Rios, hereinafter referred to as the respondent, is an individual with a mailing address of 82449 Bliss 3, Indio, CA 92201.
2. On or about August 28, 1997, the respondent violated 7 C.F.R. § 319.56(c) of the regulations by importing thirty (30) fresh pears, four (4) avocados, five (5) pitayas, and ten (10) fresh limes from Mexico into the United States, importation of which is prohibited.
3. On or about August 28, 1997, the respondent violated 7 C.F.R. § 319.56-3(a) of the regulations by importing one (1) mango from Mexico into the United States without a permit.
4. On or about August 28, 1997, the respondent violated 9 C.F.R. § 94.9(b) by

importing two (2) pounds of Chorizo from Mexico into the United States without the required certificate.

### **Conclusion**

By reason of the facts contained in paragraphs one and two above, Estela Olvera-Rios, respondent, has violated 7 C.F.R. § 319.56-3(a).

Therefore, the following order is issued.

### **Order**

Estela Olvera-Rios, respondent, is hereby assessed a civil penalty of three thousand dollars (\$3000). This penalty shall be payable to "Treasurer of the United States" by certified check or money order, and shall be forwarded to:

United States Department of Agriculture  
APHIS Field Servicing Office  
Accounting Section  
Butler Square West, 5th Floor  
100 North Sixth Street  
Minneapolis, Minnesota 55403

within thirty days from the effective date of this order. The certified check or money order should include the docket number of this proceeding.

This Order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty-five (35) days after service of this Decision and Order upon respondent, unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the rules of practice applicable to this proceeding (7 C.F.R. § 1.145).

[This Decision and Order became final September 2, 2000.-Editor]

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